

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Mohamed Nagooradumai

Date application filed with the Town Clerk: May 19, 2006

Nature of request: A Special Permit to operate a grocery store, under Section 9.22 of the Zoning Bylaw

Property Address: 319 Main Street (Map 14B, Parcel 28 R-G Zoning District)

Legal notice: Published on May 24 and May 31, 2006 in the Daily Hampshire Gazette and sent to abutters on May 24, 2006

Board members: Tom Simpson, Ted Rising and Barbara Ford

Submissions: The petitioner submitted the following documents:

- Plans drawn by Ford Gillen Architects, dated May 10, 2006 showing the site in relation to the neighborhood, the parking plan, the floor plan of the proposed grocery, the proposed sign over the entranceway and a zoning analysis of the dimensional requirements in a General Residence Zoning District
- A Management Plan for the proposed grocery store, received May 19, 2006
- A Management Plan for the building and property, submitted by Kamins Real Estate, and first approved by the Board at a public meeting July 25, 2005.

Site Visit: June 6, 2006

The Board met with Mr. and Ms. Nagooradumai at the site. They observed the following:

- The space proposed for the grocery store, located at the western end of the building
- The five other rental spaces within the building
- The small parking area in front of the building and the larger parking area at the western end of the building adjacent to the proposed grocery space.
- The commercial business district to the east across Dickinson Street that has a variety of businesses
- The Emily Dickinson Museum directly across Main Street
- The residential homes to the south and west of the site

Public Hearing: June 8, 2006

Mr. Nagooradumai spoke to the application at the hearing. He gave the following information about the proposed grocery store:

- He wishes to have a small family business where both he and his wife can work.
- The store will offer snacks, coffee, chips, pre-packaged food, tobacco products, etc.
- No alcohol will be sold, nor will food be prepared on the premises

- The store will be convenient for nearby residences and stores, and is within walking distance from the central business district
- The proposed hours of operation are 7 a.m. to 10 p.m. seven days per week
- There will be four employees, the applicant and his wife, and two others. Mostly one or two employees will be on duty. If busy there may be up to 4 employees at one time.
- Kamins Real Estate manages the building and grounds, and takes care of the building maintenance as well
- The proposed sign for the building, "Amherst Grocery Store" will be installed above the entrance as shown on the submitted plan. The sign dimensions are 2' by 26'-9"
- Lighting for the sign will be shielded florescent tubing located directly above the sign. The lighting will be indirect and downcast.
- Another sign may be requested – either a sidewalk sign or one in the store window – that will indicate when the store is open.
- Parking is shared for the building; there are 20 spaces total, 12 of which are located to the west side of the building closest to the proposed grocery. The paved section of the west side parking is at least 8 feet away from the building, with a grassy section in between.
- The side door will be used only for deliveries or emergencies. There is a dedicated parking spot next to the side door for deliveries

Mark Snow, Assistant Building Commissioner, said that there will be accessibility requirements for the proposed store – door width and counter heights, for example. If the restroom is not for use by the public, however, it does not need to be handicapped accessible.

The applicant stated that Kamins Real Estate will be responsible for the bathroom and remodeling the inside. Mr. Rising stated that the inside of the space is a mess, and wondered if the Board of Health should become involved with the cleanup.

Ms. Ford asked about landscaping at the westerly end of the building. The applicant stated that Kamins Real Estate is responsible for landscaping maintenance, but there are no plans to improve the grounds at the western end of the building at present.

The Board did note that the previously approved Kamins Real Estate Management Plan for the property states that the tenant is responsible for all interior improvements and maintenance.

Bill Gillen, 136 Sunset Avenue and 409 Main Street, spoke in support of the proposal.

Mr. Rising made a motion to close the evidentiary part of the hearing. Ms. Ford seconded the motion, and the vote was unanimous to close the hearing.

Public Meeting:

The Board had no objections to the proposed grocery store at this location. The Board noted that property meets all the dimensional requirements of an R-G Zoning District. Retail establishments such as groceries are not permitted in an R-G (Section 3.350 of the Zoning Bylaw) but because the building is grandfathered for business use, Section 9.22 of the Zoning Bylaw governs this application. The Board found that the proposed use will not be substantially different in its effect on the neighborhood than the previous use, a bicycle store. The proposed grocery will be quiet and will not have late hours, which is more congenial with the abutting residential area.

Public Meeting - Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 – The proposal is suitably located in the neighborhood in which it is proposed and is compatible with other uses since there are other businesses in the neighborhood, some with later hours than those proposed for the grocery store.

10.382, 10.385 & 10.393 – The proposal will not constitute a nuisance due to air or water pollution, noise, odor, lights or visually offensive structures because the proposed grocery will not include cooking or the preparation of food; exterior lighting will be downcast; trash containers will be emptied and brought indoors at night; and no changes are proposed for the building. The property is screened from the residential abutters to the west and south

10.383 & 10.387 – The proposal will not be an inconvenience or hazard to abutters, vehicles or pedestrians because there is ample parking and turning space on site, and there is a sidewalk in front of the property.

10.384 – Adequate and appropriate facilities will be provided for the proper operation of the proposed grocery store, since the conditions of the permit stipulate that the proposal be built according to the plan approved by the Board. The space is large enough for a customer area, an office and large storage area.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the Zoning Bylaw – 18 cars are required for the property (Section 7.5 of the Bylaw) and 20 are provided, and the proposed sign (52.68 sq. ft.) is less than 10% of the area of the store wall (480+ sq. ft.), Section 8.20.

10.388 – The proposal ensures adequate space for the off-street loading and unloading of goods since the approved plans include a dedicated parking space for deliveries.

10.389 – The proposal provides adequate methods of disposal – the building is connected to Town water/sewer lines, the building management provides for regular trash/recycling pickup, and the petitioner will pick up trash regularly around his area of business as a condition of the permit.

10.391, 10.392 & 10.395 – The proposal protects the historic features of the area, since this family business will have no exterior changes other than a tasteful sign, and it will not impinge on the Dickinson National Register District, of which this property is a part.

10.396 – The proposal provides screening for storage areas because the proposed storage will be in the basement of the building. The delivery area is screened from the abutting residences by trees and brush.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw, because a small grocery store will be an added convenience to the downtown business district and the surrounding residential area. The proposal will also promote the general welfare of the Town residents.

Public Meeting - Zoning Board Decision:

Ms. Ford made a motion to grant the Special Permit proposal, with conditions. Mr. Rising seconded the motion.

For all the reasons stated above, the Board voted unanimously to GRANT a Special Permit for a grocery store at 319 Main Street (Map 14B, Parcel 28, R-G Zoning District) under Section 9.22 of the Zoning Bylaw, as requested in the application filed by Mohamed Nagooradumai, subject to conditions

TOM SIMPSON

TED RISING

BARBARA FORD

FILED THIS _____ day of _____, 2006 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2006.
NOTICE OF DECISION mailed this _____ day of _____, 2006
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2006,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit for a grocery store at 319 Main Street (Map 14B, Parcel 28, R-G Zoning District) under Section 9.22 of the Zoning Bylaw, as requested in the application filed by Mohamed Nagooradumai, subject to the following conditions:

1. The sign above the main entrance, which was approved by the Board at the public meeting June 8, 2006, shall have downcast lighting.
2. The hours of operation for the grocery store shall be 7 a.m. to 10 p.m. seven days per week.
3. Deliveries shall be made to the entrance on the westerly side of the building during normal hours of operation.
4. No food shall be prepared on the premises.
5. Location and design of the second sign which is intended to alert the public when the store is open shall be submitted to the Board for review and approval at a public meeting.
6. Permanent parking stops shall be installed at the edge of the western parking area in order to maintain the eight-foot buffer between the parking lot and the building.
7. A trash container shall be placed outside the entrance door and emptied daily. The container shall be brought indoors when the store closes each evening.
8. The applicant shall be responsible for the daily pickup of litter on the property and surrounding area from items purchased at the grocery store.
9. The grocery store shall be operated according to the Management Plan approved by the Board at the public meeting June 8, 2006.
10. Change of management of the grocery shall be subject to review by the Board at a public meeting.

TOM SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE